

Draft Meeting Agenda
Board of Addiction & Prevention Professionals
Park Place Center, 3101 W. 41st Street, Sioux Falls, SD 57105
May 2, 2019
10:30 AM to 5:00 PM (CST)
Call In Number: 866-410-8397
Access Code: 730-588-5906

Member Listing

- | | |
|--|--------------------|
| 1. Amy Hartman, President | 6. Stacy Gorman |
| 2. Jill Viedt, Vice-President | 7. Kara Graveman |
| 3. Nicole Bowen, Secretary / Treasurer | 8. Donald McCoy |
| 4. Terri Brown | 9. Diane Sevensing |
| 5. Ellen Feiner | |

Others in attendance: Jeff Bratkiewicz and Tina Nelson

The BAPP's purpose is to protect the public through the development and establishment of generally accepted standards of professionalism and competence to be used in the recognition, certification, and licensure of addiction and prevention professionals in South Dakota.

- | | |
|--|-------------|
| 1. 10:30 a.m. Call to order | Hartman |
| 2. Roll call | Hartman |
| 3. Approve the May 2, 2019 meeting agenda | Hartman |
| 4. Approve the February 7, 2019 Board of Directors meeting minutes | Hartman |
| 5. Financial Report | Nelson |
| 6. 11:00 a.m. Public Input | Hartman |
| 7. 11:15 a.m. Executive Session: 2017-3; 2018-4; 2018-5; 2018-6; 2018-7;
2019-1; 2019-2; 2019-3; 2019-4 and 2019-5
V.Hare - Continue Discussion
E.S. Pending Upgrade Application
G.P. ACT application & disclosure of a past criminal charge
K.J. lapsed LAC
J.B. Letter of Engagement | Bratkiewicz |
| 8. Independent Practice affidavit / sworn statement | Bratkiewicz |
| 9. Administrative Assistant Position Announcement | Nelson |
| 10. State email account | Nelson |
| 11. Supervised Training Hours worksheets | Nelson |
| 12. The BAPP is receiving mail that does not have a postmark date. Current policy allows application and renewal materials to be received after the deadline, as long as the envelope is postmarked by the deadline. Consider eliminating the postmark policy, which would require a rule change. | Nelson |
| 13. Discuss HB 1028, HB 1111 & HB 1250 | Hartman |
| 14. Other Business | Hartman |
| 15. Upcoming Board of Directors meetings: August 1, 2019, and November 7, 2019 | Hartman |
| 16. Adjourn | Hartman |

February 7, 2019
Board of Directors meeting minutes

Draft Meeting Minutes
Board of Addiction & Prevention Professionals
Park Place Center, 3101 W. 41st Street, Sioux Falls, SD 57105
February 7, 2019
10:30 AM to 5:00 PM (CST)
Call In Number: 866-410-8397
Access Code: 730-588-5906

In attendance: Nicole Bowen, Ellen Feiner, Stacy Gorman, Amy Hartman, Don McCoy, and Diane Sevening.

Jill Viedt participated via conference call.

Not in attendance: Terri Brown and Kara Graveman.

Others in attendance: Paula Koller & Tina Nelson.

Jessica Tyler from DSS participated via conference call.

The BAPP's purpose is to protect the public through the development and establishment of generally accepted standards of professionalism and competence to be used in the recognition, certification, and licensure of addiction and prevention professionals in South Dakota.

I. At 10:37 a.m. Viedt called the meeting to order. She welcomed Stacy Gorman to the Board and introductions were made.

II. Viedt called the roll. A quorum was present.

III. McCoy made a motion to approve the February 7, 2019 meeting agenda, with the addition of George Eagleman's request. Sevening seconded the motion. Motion passed.

IV. Sevening made a motion to approve the November 1, 2018 Board of Directors meeting minutes. Feiner seconded the motion. Motion passed.

V. Sevening made a motion to approve the financial report. McCoy seconded the motion. Motion passed.

VI. Koller's benefitted employee termination date was January 8, 2019. A two-week break was required for payroll purposes. On Thursday, January 24, 2019, Koller returned to work at the BAPP, as to what was understood to be a part time non-benefitted position. However, her re-hire letter reflected her position as 'temporary / seasonal', not to exceed one year of employment. Viedt asked Paula if she would like to continue with her employment at the BAPP and Koller replied 'yes'. The Board would like her to remain employed, as a non-benefitted employee, without the one-year restriction. This would alleviate the need to re-hire at this time.

VII. Viedt called for Public Input at 11:00 a.m. Thomasina Real Bird, legal counsel for V. Hare, joined the meeting via conference call, for Public Input. V. Hare was not in attendance or on the phone call. McCoy made a motion recommending no decision be made until the Executive Committee confers with Mr. Bratkiewicz. Sevensing seconded the motion. Motion passed.

Hartman joined the meeting at 11:15 a.m.

VIII. Public Input: G.C. joined the meeting via conference call at 12:00 p.m. After review of all information, McCoy made a motion to deny her request for the LAC credential. Gorman seconded the motion. Motion passed. The Board encourages her to continue fulfilling the current requirements for LAC; complete and submit the application in its entirety, including the testing fee; and, successfully pass the examination. If she feels she's taken course work that will meet the academic requirements, she can complete the Portfolio Review – Course Evaluation process. Also, the Board is concerned she's practicing without a license and requests she take immediate steps to modify language pertaining to advertising, websites, professional directory listings, etc., which incorrectly state or imply she's been authorized to practice as a private independent addiction counselor.

Conference call with Jessica Tyler ended at 1:00 p.m.

IX. 1:05 p.m. Hartman moved the meeting into Executive Session pursuant to SDCL 1-25-2(3) to review and discuss confidential and privileged legal matters with the BAPP's General Counsel, Jeff Bratkiewicz. The matters to be reviewed and discussed include, but not limited to, pending ethical complaints and investigations, regulatory and sensitive internal matters, potential litigation, and legal training and information provided by the State of South Dakota concerning state professional licensing boards.

Viedt joined Executive Session via secured telephone line (non-conference).

3:40 p.m. Hartman moved the meeting out of Executive Session and telephone call with Viedt ended.

3:45 p.m. Return to General Session. Viedt and Tyler joined the meeting via conference call.

X. 2017-3 HPAP's report was reviewed. Feiner made a motion to continue with monitoring. McCoy seconded the motion. Motion passed.

XI. 2017-7 The BAPP received proof of completion of the ten additional hours of education/training in the areas of ethics and professionalism, as reflected in the Stipulation for Reprimand and Order with Reprimand. As a reminder the Stipulation states the practitioner shall not act as a supervisor for an ACT without prior written permission and approval from the BAPP. Sevensing made a motion to close the file. Feiner seconded the motion. Motion passed.

XII. 2018-5 – McCoy made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. Sevensing seconded the motion. Motion passed.

XIII. 2018-6 McCoy made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. Sevensing seconded the motion. Motion passed.

XIV. 2018-7 Sevensing made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. Feiner seconded the motion. Motion passed.

XV. 2019-1 Feiner made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. This is the second ethical complaint filed against the practitioner. Gorman seconded the motion. Motion passed.

XVI. McCoy made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. The BAPP notified M.S. in 2017, that ACT's are prohibited from providing clinical supervision. Feiner seconded the motion. Motion passed.

XVII. E.S. Pending Upgrade Application. McCoy made a motion recommending no decision be made until the Executive Committee confers with Bratkiewicz. Feiner seconded the motion. Motion passed.

XVIII. Sevening made a motion to ratify Bratkiewicz's decision authorizing B.S's Addiction Counselor Trainee recognition application be processed, pending final review and approval by the Board. Feiner seconded the motion. Motion passed.

XIX. Feiner made a motion to ratify the Executive Committee's decision regarding an anonymous complaint. Because the complaint was submitted anonymously, no further action was taken. However, a copy of the complaint was provided to the Chief Executive Officer of Addiction Recovery Centers. Sevening seconded the motion. Bowen, Hartman and Viedt abstained. Motion passed.

XX. McCoy made a motion denying Johna Nielsen's request for independent practice. The Board recommends she contact Lois Nicolas and / or Jayne DeBoer to request verification of the work experience, or at least document the dates of her employment. Sevening seconded the motion. Motion passed.

XXI. Sevening made a motion to deny Stacy Krall's request to waive the reinstatement fee. Feiner seconded the motion. Motion passed.

XXII. The Sub-Committee provided an update regarding the November 19, 2018 meeting, which addressed CSAD issues/challenges regarding workforce development. No information has been received regarding the next meeting with CSAD and the licensing Boards. The Board members also reviewed HB 1028, in relation to this matter.

XXIII. The Compliance Review Committee and sub-committee determined no changes would be made to the Supervised Practical Training Hours form, at this time. McCoy requested the Supervised Practical Training Hours form be sent to the Compliance Review Committee.

XXIV. The Board discussed the job description requirement for the application process (CPS, CAC, and LAC) and determined no changes would be made at this time.

XXV. The Board discussed HB IIII.

XXVI. Other Business - Feiner made a motion to approve George Eagleman's application for Addiction Counselor Trainee status, which may be renewed annually for up to five years. Gorman seconded the motion. Motion passed.

XXVII. Upcoming Board of Directors meetings: May 2, 2019 and August 1, 2019, and November 7, 2019.

XXVIII. Sevening made a motion to adjourn the meeting at 4:15 p.m. McCoy seconded the motion. Motion passed.

Financial Report

**BAPP Year-to-Date Revenue
and Expenditure Summary
Fiscal Year 2018 - 2019
Board Meeting Date: May 2, 2019**

Act Number	Revenue	Actual 7/1/18 to 3/31/19	Estimated FY 2019	
429301000	Application Materials	\$25.00		
429302000	Application & Testing Fee	\$4,750.00	\$6,250.00	
429302100	Retest Fee		\$200.00	
429302200	Status Upgrade Fee	\$900.00	\$450.00	
429303000	Certification Renewal Fee	\$16,625.00	\$115,000.00	<i>All renewal fees</i>
429303100	Dual Credentialed Renewal Fee	\$4,037.50		
429303200	Licensure Renewal Fee	\$49,600.00		
429303300	Retirement Status Fee	\$1,131.25		
429303400	Trainee Renewal Fee	\$14,700.00		
429303500	Trainee Recognition Initial Fee	\$4,237.50	\$7,000.00	
429304000	Continuing Educ Serv Provider Fee	\$725.00	\$600.00	
429305000	IC&RC Certificate	\$1,080.00	\$1,500.00	
429305100	Mailing Labels	\$400.00	\$700.00	
429305200	Miscellaneous Income	\$625.00		
429305300	Miscellaneous: Legal Fees	\$1,477.40		
429305400	Portfolio Review Fee	\$475.00	\$500.00	
429305500	Reinstatement Fee	\$3,300.00	\$3,000.00	
429305600	Replacement Certificate	\$15.00	\$100.00	<i>Certificates and Cards</i>
429305700	Replacement Card	\$20.00		
492004500	Investment Income		\$500.00	
	BAPP Revenue from Quick Books	\$104,123.65		
	State Revenue Report	\$104,604.04	\$135,800.00	

Act Number	State Expenditure Summary Report	Actual 7/1/18 to 3/31/19	Estimated FY 2019
	Employee Salaries - 5101		
5101010	F-T emp sal & wages	\$40,341.24	\$56,662.00
5101020	P-T/temp emp sal & wages	\$16,202.08	\$22,863.00
5101030	Board & comm mbrs fees	\$1,800.00	\$2,518.00
	Employee Benefits - 5102		
5102010	Oasi-Employers share	\$3,878.11	\$6,343.00
5102020	Retirement-er share	\$3,020.60	\$4,048.00
5102060	Health/life ins.-er share	\$11,293.44	\$20,529.00
5102080	Worker's Compensation	\$263.80	\$350.00
5102090	Unemployment Compensation	\$15.17	\$30.00
	Travel - 5203		
5203030	Auto-priv (in-st) h/rte	\$613.20	\$3,500.00
5203100	Lodging/in-state		\$835.00
5203120	Incidentals-travel-in st.		\$50.00
5203140	Taxable Meals/in-state	\$92.00	\$150.00
5203150	Non-taxable meals/in-st		\$300.00
5203220	Auto-priv(out-state) l/r		
5203260	Air-comm-out-of-state		\$1,000.00
5203280	Other-public-out-of-state		\$125.00
5203300	Lodging/out-of-state		\$1,655.00
5203320	Incidentals-out-of-state		
5203350	Non-taxable meals/out-st		\$675.00
	Contractual Services - 5204		
5204010	Subscriptions		
5204020	Dues & membership fees	\$1,957.50	\$2,448.00
5204040	Accounting consultant		
5204050	Computer Consultant	\$191.40	\$925.00
5204080	Legal consultant	\$3,738.00	\$17,130.00
5204130	Other Consulting		
5204160	Workshop registration fee	\$445.00	\$650.00
5204190	Computer Services-Private		
5204200	Central Services		\$4,683.00
5204201	Central Services/ BFM	\$3,961.18	
5204202	Central Services/ Property Management Services		
5204203	Central Services/ Purchasing Services		\$20.00
5204204	Central Services/ Records Mgmt Services	\$62.40	\$153.00
5204207	Central Services/ Human Resources Services	\$1,345.64	\$1,673.00
5204220	Equipment serv & maint		
5204230	Janitorial & maint service		
5204320	Audit Services-Private		
5204340	Computer Software Maint		
5204360	Advertising-newspaper		
5204460	Equipment rental	\$1,872.36	\$2,500.00
5204490	Rents-private owned prop	\$8,646.46	\$7,878.00
5204510	Rents-other		

5204530	Telecommunications srvc	\$1,510.23	\$2,300.00
5204550	Garbage & sewer	\$34.86	\$420.00
5204590	Ins premiums & surety bds		\$1,110.00
5204620	Taxes & License Fees		
5204730	Maintenance contracts		
5204960	Other contractual services	\$1,740.00	\$3,200.00
	Supplies & Materials - 5205		
5205020	Office supplies	\$762.14	\$1,450.00
5205090	Painting Supplies		
5205300	Trophies & awards	\$75.00	\$155.00
5205310	Printing-state		
5205328	Printing-commercial		\$1,200.00
5205350	Postage	\$1,206.00	\$1,900.00
5205540	Finished signs & decals		
	Capital Outlay - 5207		
5207431	Office machines		
5207450	Office equip & fixtures		
5207491	Telephone Equipment		\$175.00
5207901	Computer Hardware		
5207960	Computer Software		
5208080	Refund of Prior Yrs Rev		
	Total Expenses	\$105,067.81	\$171,603.00

Cash Balance 3/31/19

\$50,483.76

BAPP Revenues and Expenses by Month
Fiscal Year July 1, 2018 to June 30, 2019

Revenues	7/31/18	8/31/18	9/30/18	10/31/18	11/30/18	12/31/18	1/31/19	2/28/19	3/31/19	4/30/19	5/31/19	6/30/19	Yr to Date
Application Materials													\$25.00
Application & Testing Fee	\$750.00			\$250.00	\$250.00	\$2,750.00	\$500.00	25.00	\$250.00				\$4,750.00
Retest Fee													\$0.00
Status Upgrade Fee		\$150.00	\$300.00				\$150.00						\$900.00
Certification Renewal Fee	\$1,750.00	\$1,575.00	\$1,925.00	\$2,275.00	\$1,750.00	\$2,450.00	\$1,400.00	\$1,400.00	\$2,100.00				\$16,625.00
Dual Credentialed Renewal Fee	\$287.50	\$287.50	\$375.00	\$1,100.00		\$287.50	\$550.00	\$287.50	\$862.50				\$4,037.50
Licensure Renewal Fee	\$6,200.00	\$3,200.00	\$4,000.00	\$6,400.00	\$5,800.00	\$6,600.00	\$4,200.00	\$6,200.00	\$7,000.00				\$49,600.00
Retirement Status Fee	\$343.75	\$100.00	\$100.00	\$200.00	\$100.00	\$87.50		\$100.00	\$100.00				\$1,131.25
Trainee Renewal Fee	\$1,350.00	\$1,650.00	\$1,200.00	\$2,700.00	\$1,500.00	\$1,800.00	\$1,950.00	\$1,200.00	\$1,350.00				\$14,700.00
Trainee Recognition Initial Fee	\$312.50	\$550.00	\$512.50	\$812.50	\$425.00	\$387.50	\$687.50	\$262.50	\$287.50				\$4,237.50
Cont Ed Service Provider Fee	\$25.00	\$150.00	\$150.00	\$150.00	\$160.00	\$50.00		\$75.00	\$125.00				\$725.00
IC&RC Certificate	\$140.00	\$20.00	\$140.00	\$280.00	\$160.00	\$60.00	\$60.00	\$80.00	\$140.00				\$1,080.00
Mailing Labels	\$100.00	\$100.00	\$100.00		\$100.00								\$400.00
Miscellaneous Income		\$300.00		\$325.00									\$625.00
Misc: Legal Fees		\$1,477.40											\$1,477.40
Portfolio Review Fee	\$50.00	\$125.00	\$25.00	\$150.00	\$25.00		\$100.00						\$475.00
Reinstatement Fee	\$450.00	\$450.00		\$450.00	\$600.00	\$150.00	\$150.00	\$750.00	\$300.00				\$3,300.00
Replacement Certificate		\$15.00											\$15.00
Replacement Card				\$5.00			\$10.00	\$5.00					\$20.00
Investment Income													\$0.00
Quick Book Revenue	\$11,758.75	\$10,149.90	\$8,827.50	\$15,097.50	\$10,710.00	\$14,922.50	\$9,757.50	\$10,385.00	\$12,515.00	\$0.00	\$0.00	\$0.00	\$104,123.65
State Revenue Report	\$11,263.75	\$12,952.79	\$8,802.50	\$13,855.00	\$12,182.50	\$10,942.50	\$14,307.50	\$9,035.00	\$11,262.50				\$104,604.04
Diff between QB Revenue and State Revenue	\$495.00	\$2,802.89	\$25.00	\$1,242.50	\$1,472.50	\$3,980.00	\$4,550.00	\$1,350.00	\$1,252.50	\$0.00	\$0.00	\$0.00	\$480.39

State Expenditure Summary Report													
	7/31/18	8/31/18	9/30/18	10/31/18	11/30/18	12/31/18	1/31/19	2/28/19	3/31/19	4/30/19	5/31/19	6/30/19	Yr to Date
F-t emp sal & wages	\$4,482.36	\$6,723.54	\$2,241.18	\$4,482.36	\$6,723.54	\$2,241.18	\$4,482.36	\$4,482.36	\$4,482.36				\$40,341.24
P-t/emp emp sal & wages	\$1,339.53	\$1,927.73	\$707.99	\$1,317.86	\$2,051.12	\$560.80	\$6,593.62	\$701.00	\$1,002.43				\$16,202.08
Board & comm mbrs fees	\$480.00		\$480.00		\$420.00			\$420.00					\$1,800.00
Oasi-Employers share	\$463.71	\$630.01	\$254.27	\$422.51	\$673.26	\$203.75	\$424.76	\$407.46	\$398.38				\$3,878.11
Retirement-er share	\$349.31	\$519.07	\$176.95	\$348.01	\$526.48	\$168.12	\$394.78	\$268.94	\$268.94				\$3,020.60
Health/life ins.-er share	\$1,411.68	\$2,117.52	\$705.84	\$1,411.68	\$2,117.52	\$705.84	\$1,411.68	\$705.84	\$705.84				\$11,293.44
Worker's Compensation	\$22.71	\$33.74	\$11.50	\$22.62	\$45.61	\$14.57	\$57.59	\$26.95	\$28.51				\$263.80
Unemployment Compensation	\$1.98	\$2.93	\$1.00	\$1.97	\$1.92	\$0.61	\$2.43	\$1.13	\$1.20				\$15.17
Auto-priv (in-st) h/r/fe	\$249.48		\$279.72		\$34.00								\$613.20
Lodging/in-state													\$0.00
Incidentals-travel-in st.													\$0.00
Taxable meals/in-st	\$37.00		\$33.00		\$22.00								\$0.00
Non-taxable meals/in-st													\$22.00
Auto-priv(out-state) h/r													\$0.00
Air-comm-out-of-state													\$0.00
Other-public-out-of-state													\$0.00
Lodging/out-of-state													\$0.00
Incidentals-out-of-state													\$0.00
Non-taxable meals/out-st													\$0.00
Subscriptions													\$0.00
Dues & membership fees	\$1,757.50		\$200.00										\$0.00
Accounting consultant													\$1,957.50
Computer consultant			\$99.00				\$92.40						\$0.00
Legal consultant		\$1,637.60	\$115.70		\$587.40			\$1,397.30					\$3,738.00
Other consulting													\$0.00
Workshop registration fee		\$245.00							\$200.00				\$445.00
Computer services-private													\$0.00
Central services													\$0.00
Central services - BFM	\$1,139.90				\$1,596.16			\$1,225.12					\$3,961.18
Property management services													\$0.00
Purchasing services													\$0.00
Records mgmt services	\$19.20			\$21.60			\$21.60						\$62.40
Human resources services	\$90.96	\$263.08	\$121.42	\$202.37	\$80.94	\$263.08	\$40.48	\$80.94	\$202.37				\$1,345.64
Equipment serv & maint													\$0.00
Janitorial & maint serv													\$0.00
Audit services-private													\$0.00
Computer software maint													\$0.00
Advertising-newspaper													\$0.00
Equipment rental	\$201.35	\$105.32	\$105.32	\$248.69	\$105.32		\$895.72	\$105.32	\$105.32				\$0.00
Rents-private owned prop	\$652.85	\$652.85		\$2,097.36	\$1,048.68	\$1,048.68	\$1,048.68	\$1,048.68	\$1,048.68				\$1,872.36
Rents-other													\$6,646.46
Telecommunications svcs	\$165.43	\$171.27	\$168.19	\$166.77	\$167.68	\$169.80	\$170.90	\$165.77	\$164.42				\$0.00
Garbage & sewer	\$10.92	\$12.88		\$6.02		\$5.04							\$1,510.23
Ins premiums & surety bds													\$34.86
Taxes & license fees													\$0.00
Maintenance contracts													\$0.00
Other contractual services													\$0.00
Office supplies			\$185.10	\$1,740.00	\$84.99	\$110.07	\$284.78	\$97.20					\$1,740.00
Painting suplies													\$762.14
													\$0.00

[illegible]

Draft Supervised Training Hours Worksheets

SUPERVISED TRAINING HOURS

Worksheet for Prevention Practitioner

Supervision must include a minimum of eight contact hours each month. Supervision must be face-to-face whenever possible. Not more than fifty percent of the required hours may be by email, internet, video-conferencing, audio-conferencing, or teleconferencing.

Trainee's Name: _____

Supervisor's Name: _____ CPS ____ CAC ____ LAC ____

Agency where completed: _____

Prevention Specialist Domains

- | | |
|--|---|
| 1. Planning and Evaluation | 4. Community Organization |
| 2. Prevention Education and Service Delivery | 5. Public Policy and Environmental Change |
| 3. Communication | 6. Professional Growth and Responsibility |

Date of Supervision	Brief Explanation of Supervision	Supervision Type F – Face-to-Face O – Other	Domains Addressed (See # above)	Total Number of Hours

Trainee's Signature: _____ Date: _____

Supervisor's Signature _____ Date: _____

4/3/19

SUPERVISED TRAINING HOURS

Worksheet for Addiction Practitioner

Supervision must include a minimum of eight contact hours each month. A minimum of one hour of supervision for every ten hours of client contact is required. Supervision must be face-to-face whenever possible. Not more than fifty percent of the required hours may be by email, internet, video-conferencing, audio-conferencing, or teleconferencing.

Trainee's Name: _____

Supervisor's Name: _____ CAC ____ LAC ____

Agency where completed: _____

ADC Domains I: Screening, Assessment, and Engagement; Domain II: Treatment Planning, Collaboration, and Referral; Domain III: Counseling; Domain IV: Professional and Ethical Responsibilities

Twelve Core Functions

- | | | |
|----------------|------------------------|------------------------------|
| 1. Screening | 5. Treatment Planning | 9. Client Education |
| 2. Intake | 6. Counseling | 10. Referral |
| 3. Orientation | 7. Case Management | 11. Reports & Record Keeping |
| 4. Assessment | 8. Crisis Intervention | 12. Consultation |

Date of Supervision	Brief Explanation of Supervision	Supervision Type F – Face-to-Face O – Other	Core Functions Addressed (See # above)	Total Number of Hours

Trainee's Signature: _____ Date: _____

Supervisor's Signature _____ Date: _____

4/3/19

HB 1028

JOURNAL OF THE HOUSE

NINETY-FOURTH SESSION

TWENTY-NINTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Monday, February 25, 2019

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.
The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by House pages Michael Garofalo and Brody Wilson.

Roll Call: All members present except Reps. Frye-Mueller and Randolph who were excused.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the twenty-eighth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Which motion prevailed.

Respectfully submitted,
Steven G. Haugaard, Chair

CONSIDERATION OF REPORTS OF COMMITTEES

Rep. Qualm moved that the reports of the Standing Committees on

Commerce and Energy on HB 1084 and HB 1090 as found on page 477 and HB 1219 as found on Page 478 of the House Journal; also

Judiciary on HB 1130 as found on page 486, HB 1132 as found on page 488, HB 1193 as found on page 494, HB 1195 as found on page 495, and HB 1272 as found on page 498 of the House Journal; also

State Affairs on HB 1177 as found on page 501, HB 1246 and HB 1265 as found on page 502, and HJR 1006 and HB 1093 as found on page 508 of the House Journal be adopted.

Which motion prevailed.

No motion having been made for the disposition of HB 1028, pursuant to Joint Rule 6F-6, the bill was declared lost.

Rep. Qualm moved that HB 1225 be placed on today's calendar.

The question being on Rep. Qualm's motion that HB 1225 be placed on today's calendar.

And the roll being called:

Yeas 37, Nays 28, Excused 5, Absent 0

Yeas:

Anderson; Beal; Brunner; Deutsch; Finck; Glanzer; Goodwin; Gosch; Greenfield (Lana); Gross; Hammock; Hansen; Howard; Jensen (Kevin); Johnson (Chris); Karr; Koth; Latterell; Livermont; Mills; Milstead; Miskimins; Mulally; Otten (Herman); Perry; Peterson (Sue); Pischke; Post; Qualm; Rasmussen; Reimer; St John; Weis; Wiese; York; Zikmund; Haugaard

Nays:

Bartels; Barthel; Bordeaux; Borglum; Chaffee; Chase; Cwach; Diedrich; Duba; Duvall; Healy; Hunhoff; Johns; Johnson (David); Lake; Lesmeister; McCleerey; Olson; Peterson (Kent); Pourier; Reed; Ring; Rounds; Saba; Schoenfish; Smith (Jamie); Sullivan; Willadsen

Excused:

Dennert; Frye-Mueller; Marty; Randolph; Steele

So the motion having received an affirmative vote of a majority of the members-elect, the Speaker declared the motion carried and HB 1225 was so placed.

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0284

HOUSE BILL NO. 1028

Introduced by: The Committee on Health and Human Services at the request of the Board of
Examiners for Counselors and Marriage and Family Therapists

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding professional
2 counselors and marriage and family therapists.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That §§ 36-32-1 to 36-32-46, inclusive, be repealed.

5 Section 2. That the code be amended by adding a NEW SECTION to read:

6 Terms as used in sections 2 to 56, inclusive, of this Act mean:

7 (1) "Board," the Board of Examiners for Counselors and Marriage and Family Therapists
8 established under this Act;

9 (2) "Counselor educator," a professional counselor engaged primarily in developing,
10 implementing, and supervising the educational preparation of professional
11 counselors;

12 (3) "Counseling," diagnosis and treatment of mental illness or mental and emotional
13 disorders; individual, group, and marriage and family counseling, and psychotherapy;
14 assessment; crisis intervention; counseling and consulting to facilitate normal growth
15 and development; psychoeducational techniques aimed at the prevention of mental



1 nine members, three of whom shall be lay members, one of whom shall be a current or retired
2 counselor educator, and five of whom shall be professionals actively engaged in professional
3 counseling or marriage and family therapy and broadly representing a cross section of the
4 licensed disciplines governed by the board. The Governor shall appoint all the members.

5 Section 4. That the code be amended by adding a NEW SECTION to read:

6 To be eligible for appointment to the board as a professional member, a person shall be
7 licensed under this Act.

8 Section 5. That the code be amended by adding a NEW SECTION to read:

9 Appointments to the board shall be for terms of three years and begin on October thirty-first.
10 The appointee's term shall expire on October thirtieth in the third year of appointment. No
11 member of the board may serve for more than three successive full terms. Appointment to an
12 unexpired term is not considered a full term.

13 Section 6. That the code be amended by adding a NEW SECTION to read:

14 The Governor may remove a member of the board for cause. If a vacancy on the board is
15 caused by death of a member, resignation, removal from the state, or for any other reason, the
16 Governor shall appoint a new member to serve out the unexpired term.

17 Section 7. That the code be amended by adding a NEW SECTION to read:

18 The board shall hold a meeting at least annually. The board may hold other meetings at a
19 time and place set by the president or by a majority of the board. A majority of the board
20 constitutes a quorum to conduct business. A majority of those present and voting constitutes a
21 decision of the board.

22 Section 8. That the code be amended by adding a NEW SECTION to read:

23 The board shall annually elect a president and a vice-president from its members.

24 Section 9. That the code be amended by adding a NEW SECTION to read:

1 The board, in regard to both professional counselors and licensees under sections 58 to 97,
2 inclusive, has the following powers and duties:

- 3 (1) Administer, coordinate, and enforce the provisions of this Act;
- 4 (2) Establish educational, training, examination, and competency standards for
5 professional counselors and licensees under sections 58 to 97, inclusive, of this Act;
- 6 (3) Establish standards for the safe and qualified practice of counseling and marriage and
7 family therapy;
- 8 (4) Evaluate the qualifications of applicants for licensure and issue and renew licenses
9 and permits;
- 10 (5) Establish standards and responsibilities for post-graduate board approved supervision
11 for candidates for licensure;
- 12 (6) Adopt ethical standards for the practice of counseling and marriage and family
13 therapy;
- 14 (7) Establish competency standards and responsibilities for post-graduate board
15 approved supervisors;
- 16 (8) Maintain the names of persons that meet the qualifications for a license or permit;
- 17 (9) Conduct all disciplinary proceedings;
- 18 (10) Maintain a record of each complaint received by the board;
- 19 (11) Establish reasonable requirements regarding reentry into practice of inactive
20 practitioners and the reinstatement of previously licensed practitioners;
- 21 (12) Establish continuing education and continuing competency requirements for
22 licensees and permit holders under this Act and the procedures for verifying
23 compliance with the established requirements;
- 24 (13) Establish standards for the practice of distance counseling and distance marriage and

1 counselor--mental health," or "licensed professional counselor," unless licensed under sections
2 2 to 56, inclusive, of this Act.

3 Section 18. That the code be amended by adding a NEW SECTION to read:

4 Fraudulent or misleading advertising pertaining to the practice of counseling constitutes a
5 Class 1 misdemeanor.

6 Section 19. That the code be amended by adding a NEW SECTION to read:

7 No licensee under sections 2 to 56, inclusive, of this Act may perform counseling services
8 that are outside the scope of the licensee's relevant education, training, and experience.

9 Section 20. That the code be amended by adding a NEW SECTION to read:

10 The board may use its own staff, or employ, or contract with agents or investigators to assist
11 in the enforcement of sections 2 to 56, inclusive, of this Act or any rule promulgated thereunder.
12 If it appears to the board that a person is violating any provision or rule promulgated under
13 sections 2 to 56, inclusive, of this Act, the board may, in its own name or in the name of the
14 state, bring an action in circuit court to enjoin the act, practice, or violation and to enforce
15 compliance with sections 2 to 56, inclusive of this Act or any rule promulgated thereunder as
16 an alternative to criminal proceedings. The proceedings shall be prosecuted by the Office of the
17 Attorney General or by a person designated by the attorney general and retained by the board
18 as provided in section 21 of this Act.

19 Section 21. That the code be amended by adding a NEW SECTION to read:

20 The board, members, officers, and agents, shall assist any person charged with the
21 enforcement of sections 2 to 56, inclusive, of this Act, and the board, its members, agents, and
22 officers shall furnish evidence to assist in the prosecution of any violation or enforcement of
23 sections 2 to 56, inclusive, of this Act, and the board may make a reasonable expenditure for this
24 purpose. The board may employ an attorney designated by the attorney general. The board shall

1 notwithstanding, if the applicant has been convicted of, or pled guilty to a felony, any crime
2 involving or relating to the practice of counseling, or any crime involving dishonesty or moral
3 turpitude and the board determines the plea or conviction is of a nature or is sufficiently remote
4 in time that the applicant does not constitute a risk to public safety. An applicant may appeal the
5 denial of a license under procedure in chapter 1-26.

6 Section 23. That the code be amended by adding a NEW SECTION to read:

7 Notwithstanding the requirements of section 22 of this Act, the board may accept a doctorate
8 or master's degree in counseling of at least forty-eight hours from an accredited counseling
9 program recognized by the board, if the applicant's degree was received before July 1, 2026.

10 Section 24. That the code be amended by adding a NEW SECTION to read:

11 If the board suspects that the physical or mental health of any applicant is at risk to
12 jeopardize or endanger those who seek assistance from the applicant, the board may require the
13 applicant to be examined by a competent examiner selected by the board. The board shall pay
14 the cost of the examination. If the examiner confirms that the person's physical or mental health
15 is at risk of jeopardizing or endangering those who seek relief from the applicant, the board may
16 deny the application for a license until the applicant furnishes satisfactory proof of adequate
17 physical and mental health to practice counseling.

18 Section 25. That the code be amended by adding a NEW SECTION to read:

19 Notwithstanding the provisions of section 22 of this Act, the board may issue a license as
20 a professional counselor-mental health to an applicant licensed to practice counseling in another
21 state or territory of the United States if the applicant demonstrates the following qualifications:

- 22 (1) The applicant is currently licensed as a counselor and has been under the jurisdiction
23 of the licensing authority in the other jurisdiction for at least three continuous years
24 prior to the time of submitting an application to the board;

1 board or in another jurisdiction by the applicant.

2 For purposes of this section, the term, active practice, means the applicant accumulated at least
3 one thousand five hundred hours of clinical experience in the three years immediately preceding
4 the application.

5 An applicant for a temporary license shall submit an application on a form approved by the
6 board, along with the application fee and the temporary license fee prescribed by the board. The
7 board shall issue a temporary license as a professional counselor-mental health to an applicant
8 who meets the requirements of this section and pays the required temporary license fee. A
9 temporary license automatically expires on the passage of the required national examination or
10 expiration of the term for which the temporary license was issued, whichever occurs first. A
11 temporary license may be renewed once.

12 Section 27. That the code be amended by adding a NEW SECTION to read:

13 Any person practicing under a temporary license is subject to supervision and discipline by
14 the board under sections 2 to 56, inclusive, of this Act, in the same manner as any other licensee
15 under sections 2 to 56, inclusive, of this Act. A person practicing under a temporary license
16 submits to the jurisdiction of the board.

17 Section 28. That the code be amended by adding a NEW SECTION to read:

18 Any licensee shall furnish the board with updated information within thirty days upon
19 changing the licensee's name, place of employment, or place of business.

20 Section 29. That the code be amended by adding a NEW SECTION to read:

21 A license issued under sections 2 to 56, inclusive, of this Act, is valid until November
22 thirtieth biennially in odd number years following the date it is issued and automatically expires
23 unless it is renewed.

24 Section 30. That the code be amended by adding a NEW SECTION to read:

1 Any license on inactive status with the board as of July 1, 2019, expires on November 30,
2 2021, if the licensee does not restore the license to active status prior to expiration by meeting
3 the requirements set forth in this section.

4 Section 33. That the code be amended by adding a NEW SECTION to read:

5 An expired professional counselor-mental health license may be reactivated within four
6 years of the date of expiration by an applicant upon:

- 7 (1) Paying all applicable renewal fees required for the period the license was expired;
- 8 (2) Providing proof of all continuing education required for the period the license was
9 expired; and
- 10 (3) Providing proof of passage of a national examination approved by the board after the
11 date the original license expired.

12 Section 34. That the code be amended by adding a NEW SECTION to read:

13 Sections 2 to 56, inclusive, of this Act, do not apply to the following persons practicing
14 counseling as defined in section 2 of this Act as part of that person's professional duties:

- 15 (1) Any professional licensed or certified under this title acting in a manner consistent
16 with state law regarding the scope of practice;
- 17 (2) Any person employed by a school, college, university, or other institution of higher
18 learning engaged primarily in the education of students;
- 19 (3) Any person employed by a federal, state, county, or local governmental institution
20 or agency while performing those duties for which the person was employed by the
21 institution, agency, or facility;
- 22 (4) Any person who is employed by a licensed health care facility, an accredited
23 prevention or treatment facility, a community support provider, a nonprofit mental
24 health center, or a licensed or registered child welfare agency;

1 (6) If the person waives the privilege by bringing charges against the licensed
2 professional counselor-mental health.

3 Section 36. That the code be amended by adding a NEW SECTION to read:

4 If both parties to a marriage have obtained counseling by a licensed professional counselor
5 or a licensed professional counselor-mental health, the counselor may not testify in an alimony
6 or divorce action concerning information acquired in the course of the therapeutic relationship.
7 This section does not apply to custody actions.

8 Section 37. The board shall receive complaints regarding the enforcement of sections 2 to
9 56, inclusive, of this Act. A record of each complaint shall be maintained by the board. An
10 investigation shall be conducted by a member, agent or an appointee of the board to determine
11 whether an alleged violation has been committed. The investigator, if a member of the board,
12 may dismiss a complaint if it appears to the member, either with or without the consultation of
13 the board, that no violation has been committed. If the investigator is an agent or an appointee
14 of the board, dismissal of the complaint may only be made by the president. Any agreed
15 disposition made between the investigator and the licensee or permit holder shall be made
16 known to and approved by the board. If the complaint is not dismissed, and an agreed
17 disposition is not reached, the investigator may request the board set a date for hearing on the
18 complaint. All disciplinary proceedings held under the authority of sections 2 to 56, inclusive,
19 of this Act shall be conducted in accordance with chapter 1-26. Any decision of the board
20 entered in a contested proceeding held in accordance with chapter 1-26 may be appealed to the
21 circuit court within thirty days. A license or permit shall remain in effect during the pendency
22 of an appeal unless suspended under section 40 of this Act. The complaining party shall be
23 notified promptly of the final disposition of the complaint.

24 Section 38. That the code be amended by adding a NEW SECTION to read:

- 1 (4) The licensee or permit holder is addicted to the habitual use of intoxicating liquors,
2 narcotics, or stimulants to an extent as to incapacitate the licensee from the
3 performance of the licensee's professional duties;
- 4 (5) The physical or mental condition of the licensee or permit holder is determined by
5 a competent medical examiner to be such as to jeopardize or endanger those who
6 seek relief from the licensee. A majority of the board may demand an examination
7 of the licensee or permit holder by a competent medical examiner selected by the
8 board at the board's expense. If the licensee or permit holder fails to submit to the
9 examination, this constitutes immediate grounds for suspension of the licensee's
10 license or permit;
- 11 (6) Obtaining or attempting to obtain a license, certificate, permit, or renewal through
12 bribery or fraudulent representation;
- 13 (7) Knowingly making a false statement in connection with any application under
14 sections 2 to 56, inclusive, of this Act;
- 15 (8) Knowingly making a false statement on any form established by the board in
16 accordance with sections 2 to 56, inclusive, of this Act, or the rules promulgated
17 under sections 2 to 56, inclusive, of this Act;
- 18 (9) The licensee or permit holder has violated any provision of sections 2 to 56,
19 inclusive, of this Act, or the rules promulgated under sections 2 to 56, inclusive, of
20 this Act; or
- 21 (10) The licensee or permit holder has been found to be in violation of the ethical
22 standards adopted by the board.

23 Section 41. That the code be amended by adding a NEW SECTION to read:

24 The proceedings for cancellation, revocation, or suspension of a license or permit may be

1 records, board members per diem compensation, board staff time, and expenses
2 incurred for the investigation and disciplinary proceedings; and

3 (8) Deny an application for a license or permit.

4 Section 43. That the code be amended by adding a NEW SECTION to read:

5 The board may suspend a license or permit in advance of a final adjudication or during the
6 appeals process if the board finds that a licensee or permit holder would represent a clear and
7 immediate or imminent danger to the public health and safety if allowed to continue to practice.
8 A licensee or permit holder whose license or permit is suspended under this section is entitled
9 to a hearing before the board within twenty days after the effective date of the suspension. The
10 licensee or permit holder may subsequently appeal the suspension to circuit court in accordance
11 with chapter 1-26.

12 Section 44. That the code be amended by adding a NEW SECTION to read:

13 All proceedings regarding the cancellation, revocation, or suspension of a license or permit
14 shall otherwise conform to the procedure set forth in chapter 1-26.

15 Section 45. That the code be amended by adding a NEW SECTION to read:

16 A party may appeal any act, ruling, or decision of the board regarding refusal to grant,
17 cancellation, revocation, or suspension of a license under chapter 1-26.

18 Section 46. That the code be amended by adding a NEW SECTION to read:

19 At the board's discretion, the board may reinstate or issue a new license or permit. The board
20 may require the applicant to pay all costs of the proceedings resulting in the suspension or
21 revocation of the license or permit and reinstatement or issuance of a new license or permit.

22 Section 47. That the code be amended by adding a NEW SECTION to read:

23 The board shall investigate and report any alleged violation of sections 2 to 56, inclusive,
24 of this Act. The board may employ special counsel subject to the supervision, control, and

1 Section 52. That the code be amended by adding a NEW SECTION to read:

2 Any professional counselor licensed by the board under chapter 36-32 before July 1, 2019,
3 or any person practicing as a professional counselor under a board approved plan of supervision
4 before July 1, 2019, may be licensed as a professional counselor. Any person licensed under this
5 section may practice counseling as defined in section 2 of this Act. No person licensed under
6 this section may perform any counseling services that are outside the scope of the licensee's
7 relevant education, training, and experience.

8 Any person licensed under this section shall renew the license by November 30, 2019, and
9 biennially thereafter. The licensee may renew the license by making application for renewal on
10 a form prescribed by the board, paying the required renewal fee, and providing proof of
11 compliance with the continuing education requirements set forth in section 31 of this Act before
12 the expiration of the license. Failure to renew a license on or before the thirtieth day of
13 November in an odd numbered year constitutes an automatic suspension of the license. The
14 board shall notify the licensee that the renewal application has not been received by the board
15 and that the licensee may not practice counseling. Any person who fulfills all renewal
16 requirements set forth in this section within thirty days after the license expiration date may be
17 granted a license renewal.

18 Any professional counselor license issued by the board under chapter 36-32 on inactive
19 status with the board as of July 1, 2019, shall expire on November 30, 2021, if the licensee does
20 not restore the license to active status prior to expiration by meeting the requirements set forth
21 in this section.

22 Section 53. That the code be amended by adding a NEW SECTION to read:

23 Notwithstanding the requirements of section 22 of this Act, a person licensed pursuant to
24 section 52 of this Act may be issued a license as a professional counselor-mental health if the

1 any person practicing under a board approved plan of supervision for a professional counselor
2 that is approved as of July 1, 2019, shall, within four years of the date of the plan of supervision
3 was approved, complete one thousand seven hundred hours of board approved supervision, and
4 pass the National Counselor Examination for Licensure and Certification. A person practicing
5 under a board approved plan of supervision under this section may practice counseling as
6 defined in section 2 of this Act. A person practicing counseling under a board approved plan of
7 supervision pursuant to this section may not perform any counseling services that are outside
8 the scope of the person's relevant education, training, and experience.

9 The board may not issue any person a plan of supervision as a professional counselor after
10 July 1, 2019.

11 Section 55. That the code be amended by adding a NEW SECTION to read:

12 Any person who has been issued a plan of supervision as a professional counselor-mental
13 health as of January 1, 2019, shall meet the educational, supervision and examination
14 requirements set forth in section 22 of this Act to be eligible for licensure as a professional
15 counselor-mental health.

16 Section 56. That the code be amended by adding a NEW SECTION to read:

17 Any person licensed as a professional counselor-mental health under § 36-32-42 before
18 June 30, 2019, shall be licensed as a professional counselor-mental health pursuant to sections
19 2 to 56, inclusive, of this Act.

20 Section 57. That the code be amended by adding a NEW SECTION to read:

21 That §§ 36-33-1 to 36-33-33, inclusive, be repealed.

22 Section 58. That the code be amended by adding a NEW SECTION to read:

23 Terms as used in sections 58 to 97, inclusive, of this Act mean:

24 (1) "Board," the Board of Examiners for Counselors and Marriage and Family Therapists

1 marital therapist", "licensed marriage counselor," "licensed family therapist," or "licensed
2 marriage and family therapist," unless licensed under sections 58 to 97, inclusive, of this Act.

3 Section 62. That the code be amended by adding a NEW SECTION to read:

4 Fraudulent or misleading advertising to the practice of marriage and family therapy
5 constitutes a Class 1 misdemeanor.

6 Section 63. That the code be amended by adding a NEW SECTION to read:

7 No licensee under sections 58 to 97, inclusive, of this Act, may perform marriage and family
8 therapy services that are outside the scope of the licensee's relevant education, training, and
9 experience.

10 Section 64. That the code be amended by adding a NEW SECTION to read:

11 Nothing in sections 58 to 97, inclusive, of this Act may be construed to prevent any other
12 qualified professional, including a clinical social worker, psychiatric nurse, professional
13 counselor, clinical and counseling psychologist, physician, attorney-at-law, or member of the
14 clergy, from performing or advertising the performance of marriage and family therapy
15 consistent with the accepted standards of that person's profession, but the professional is
16 prohibited from using a title or description stating or implying that the person is licensed to
17 practice marriage and family therapy under the provisions of sections 58 to 97, inclusive, of this
18 Act.

19 Section 65. That the code be amended by adding a NEW SECTION to read:

20 The board may use its own staff or employ or contract with agents or investigators to assist
21 in the enforcement of sections 58 to 97, inclusive, of this Act, or any rule promulgated by the
22 board. If it appears to the board that a person is violating any provision or rule promulgated
23 pursuant to sections 58 to 97, inclusive, of this Act, the board may, in its own name or in the
24 name of the state, in the circuit court in any county in which jurisdiction is proper, bring an

- 1 (3) Within the four years preceding the date of application, the applicant has completed
2 one thousand seven hundred hours of supervised experience in marriage and family
3 therapy through a plan of supervision approved by the board subsequent to the
4 applicant receiving an acceptable degree;
- 5 (4) The applicant has no disciplinary proceeding or unresolved disciplinary complaint
6 pending before a licensing board at the time the license is to be issued;
- 7 (5) The applicant is of good moral character; and
- 8 (6) The applicant is not in violation of any provision of sections 58 to 97, inclusive, of
9 this Act or the rules promulgated pursuant to sections 58 to 97, inclusive, of this Act.

10 The board may refuse to grant a license to any person based on failure to demonstrate the
11 requirements of this section. The board may grant a license, the provisions of subdivision (5)
12 notwithstanding, if the applicant has been convicted of, or pled guilty to a felony, any crime
13 involving or relating to the practice of counseling, or any crime involving dishonesty or moral
14 turpitude and the board determines that the plea or conviction is of a nature or is sufficiently
15 remote in time that the applicant does not constitute a risk to public safety. An applicant may
16 appeal the denial of a license under the procedure in chapter 1-26.

17 Section 68. That the code be amended by adding a NEW SECTION to read:

18 Notwithstanding the requirements of section 67 of this Act, the board may accept a doctorate
19 or master's degree which contains at least forty-eight hours in marriage and family therapy from
20 an accredited marriage and family therapy program recognized by the board, if the applicant's
21 degree was received before July 1, 2026.

22 Section 69. That the code be amended by adding a NEW SECTION to read:

23 If the board suspects that the physical or mental health of any applicant may jeopardize or
24 endanger those who seek assistance from the applicant, the board may require the applicant to

1 Section 71. That the code be amended by adding a NEW SECTION to read:

2 Any marriage and family therapist licensed in another state or territory of the United States
3 who has not passed the national examination required by the board for licensure by endorsement
4 under section 70 of this Act may be issued a temporary license to practice for up to ninety days,
5 if the applicant demonstrates the following qualifications:

6 (1) The applicant is currently licensed as a marriage and family therapist and has been
7 under the jurisdiction of the licensing authority in the other jurisdiction for at least
8 three continuous years prior to the time of submitting an application to the board;

9 (2) The applicant is in good standing with the licensing authority in the other
10 jurisdiction;

11 (3) Verification from the applicant of an active practice in the three years prior to the
12 time of submitting an application to the board; and

13 (4) An absence of unprofessional conduct or pending disciplinary complaints in another
14 jurisdiction by the applicant.

15 For purposes of this section, the term, active practice, means the applicant accumulated at least
16 one thousand five hundred hours of clinical experience in the three years immediately preceding
17 the application.

18 An applicant for a temporary license shall submit an application on a form approved by the
19 board, along with the application fee and the temporary license fee prescribed by the board. The
20 board shall issue a temporary license as a marriage and family therapist to an applicant who
21 meets the requirements of this section and pays the required temporary license fee. A temporary
22 license automatically expires on the passage of the required national examination or expiration
23 of the term for which the temporary license was issued, whichever occurs first. A temporary
24 license may be renewed once.

Any person licensed under sections 58 to 97, inclusive, of this Act, shall complete at least forty hours of continuing education biennially in odd-numbered years in a manner and by an instructor approved by the board. The required continuing education hours may be obtained by electronic means. The board may extend or waive the continuing education requirement for a licensee upon proof of illness or undue hardship if a written request from the licensee is made to the board prior to the expiration of the license.

Section 77. That the code be amended by adding a NEW SECTION to read:

The board may place an active license on inactive status upon submission of an application by the licensee to inactivate a license and payment of a fee prescribed by the board. An inactive license expires four years after the date of inactivation. An inactive license can be reactivated by paying the current license renewal fee and providing proof of at least forty hours of compliant continuing education in the two-year period immediately preceding the reactivation request. If an inactive license is not reactivated prior to its expiration, the license is expired and all provisions applicable to an applicant for licensure apply to restore the license to active status.

Any license on inactive status with the board as of July 1, 2019, shall expire on November 30, 2021, if the licensee does not restore the license to active status prior to expiration by meeting the requirements set forth in this section.

Section 78. That the code be amended by adding a NEW SECTION to read:

An expired license may be reactivated within four years of the date of expiration by an applicant upon:

- (1) Paying all applicable renewal fees required for the period the license was expired;
- (2) Providing proof of all continuing education required for the period the license was expired; and
- (3) Providing proof of passage of a national examination approved by the board after the

1 No licensee under sections 58 to 97, inclusive, of this Act, or employee of a licensee may
2 disclose information acquired from any person consulting the licensee in a professional capacity
3 except:

4 (1) If mandated by state law or authorized to under the Health Insurance Portability and
5 Accountability Act of 1996 (HIPAA) as amended to January 1, 2019;

6 (2) If the information is necessary to prevent or mitigate a serious and imminent threat
7 to the health or safety of a person or the public if the disclosure is made to a person
8 reasonably able to prevent or mitigate the threat, including the target of the threat;

9 (3) If the licensed marriage and family therapist is a party defendant to a civil, criminal,
10 or disciplinary action arising from such professional capacity, in which case any
11 waiver of the privilege accorded by this section is limited to that action;

12 (4) If the client is a defendant in a criminal proceeding and the use of the privilege would
13 violate the defendant's right to a compulsory process or right to present testimony and
14 evidence;

15 (5) With the written consent of the person or, in the case of death or disability, of the
16 person's own personal representative, other person authorized to sue, or the
17 beneficiary of an insurance policy on the person's life, health, or physical condition.
18 If more than one person in a family is receiving therapy from the marriage and family
19 therapist, each family member must agree to the waiver for the marriage and family
20 therapist to disclose information received from any family member;

21 (6) If the person waives the privilege by bringing charges against the licensed; or

22 (7) If there is a duty to warn under the limited circumstances set forth in section 80 of
23 this Act.

24 Section 82. That the code be amended by adding a NEW SECTION to read:

1 hours, any place where marriage and family therapy is practiced for the purpose of enforcing
2 sections 58 to 97, inclusive, of this Act, in a manner compliant with the Health Insurance
3 Portability and Accountability Act of 1996, as amended to January 1, 2019. Refusal to allow an
4 inspection may constitute unprofessional or dishonorable conduct.

5 Section 85. That the code be amended by adding a NEW SECTION to read:

6 Testimony or documentary evidence of any kind obtained during the investigation of a
7 complaint is not subject to discovery or disclosure under chapter 15-6 or any other provision of
8 law and is not admissible as evidence in any legal proceeding, until such time as the complaint
9 becomes a contested case as defined in § 1-26-1. No person that has participated in the
10 investigation of a complaint may testify as an expert witness or be compelled to testify for any
11 party in any civil action if the subject matter of the complaint investigated is a basis for the civil
12 action.

13 Section 86. That the code be amended by adding a NEW SECTION to read:

14 The license of a marriage and family therapist may be revoked, suspended, or canceled upon
15 any of the following grounds:

- 16 (1) The licensee is guilty of fraud in the practice of marriage and family therapy or fraud
17 or deceit in the licensee's admission to the practice of marriage and family therapy;
- 18 (2) The licensee has been convicted during the past five years of a felony. The conviction
19 of a felony means the conviction of any offense which, if committed within the State
20 of South Dakota, would constitute a felony;
- 21 (3) The licensee is engaged in the practice of marriage and family therapy under a false
22 or assumed name and has not registered that name under chapter 37-11, or is
23 impersonating another practitioner of a like or different name;
- 24 (4) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or

1 Section 88. That the code be amended by adding a NEW SECTION to read:

2 The board may impose any of the following sanctions, individually or in combination, if it
3 finds that a person, entity, licensee, or permit holder has violated any provision of sections 58
4 to 97, inclusive, of this Act, or any rule promulgated thereunder:

- 5 (1) Revoke a license or permit for an indefinite period;
- 6 (2) Suspend a license or permit for a specific or indefinite length of time;
- 7 (3) Place on condition or limit a license or permit;
- 8 (4) Issue a censure or a letter of reprimand;
- 9 (5) Place a licensee or permit holder on probationary status and require the licensee or
10 permit holder to report regularly to the board on the matters which are the basis for
11 probation, limit the licensee's or permit holder's practice to areas prescribed by the
12 board, and require professional education until a satisfactory degree of skill has been
13 attained in those areas which are the basis of the probation. The board may withdraw
14 the probation if the board finds the deficiencies which require disciplinary action
15 have been remedied;
- 16 (6) Impose any other sanctions that the board determines is appropriate;
- 17 (7) Impose a fee to reimburse the board in an amount equal to all or part of the costs
18 incurred for the investigation and proceedings resulting in disciplinary action
19 authorized by sections 58 to 97, inclusive, of this Act, or for the issuance of a cease
20 and desist order. The costs include the amount paid by the board for services from
21 attorneys, investigators, court reporters, witnesses, expert witnesses, reproduction of
22 records, board members per diem compensation, board staff time, and expenses
23 incurred for the investigation and disciplinary proceedings; or
- 24 (8) Deny an application for a license or permit.

1 Any person violating the provisions of sections 58 to 97, inclusive, of this Act, may be
2 enjoined from further violations at the suit of the state's attorney of the county where the
3 violations occurred, or suit may be brought by any citizen of this state. An action for injunction
4 shall be an alternate to criminal proceedings.

5 Section 95. That the code be amended by adding a NEW SECTION to read:

6 Any person who practices marriage and family therapy through electronic means, and
7 provides the marriage and therapy services to a patient located in this state is engaged in the
8 practice of marriage and family therapy in this state regardless of the provider's physical
9 location.

10 Section 96. That the code be amended by adding a NEW SECTION to read:

11 Any service provided by a licensee or supervise through electronic means shall comply with
12 the provisions of sections 58 to 97, inclusive, of this Act, and the rules promulgated under this
13 Act.

14 Section 97. That the code be amended by adding a NEW SECTION to read:

15 The board shall promulgate rules regarding fees, pursuant to chapter 1-26, within the
16 following limits:

- 17 (1) Application fee, not more than two hundred dollars;
- 18 (2) Biennial renewal fee, not more than five hundred dollars;
- 19 (3) Duplication license fee, not more than fifteen dollars;
- 20 (4) Inactive license fee, not more than one hundred dollars;
- 21 (5) Temporary license fee, not more than two hundred dollars; and
- 22 (6) License verification fee, not more than twenty-five dollars.

HB 1111

2019 House Bill 1111 - Enrolled

AN ACT

ENTITLED, An Act to provide for professional or occupational licensure for certain active duty military personnel and spouses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-1B-1 be amended to read:

36-1B-1. Notwithstanding any other provision in law and unless an applicant is found by the board to have engaged in any act that may constitute grounds for disciplinary action, any licensing body under the provisions of this title shall, within thirty days of receiving a completed application, issue a license, certificate, registration, or permit required for the practice of any business, profession, or occupation in South Dakota to an applicant whose application has been deemed completed by the board and:

- (1) Who holds in good standing the same or similar valid license, certificate, registration, or permit required for the practice of any business, profession, or occupation issued by another state or the District of Columbia;
- (2) Who is an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States; and
- (3) Who is the subject of a military transfer to South Dakota.

An application is considered complete once the applicable licensing board has received all required documentation necessary to process the application.

If a licensing body denies the issuance of a license, certificate, registration, or permit to an applicant pursuant to this section, the licensing body shall report the denial and the reasons for the denial to the Department of Labor and Regulation.

Section 2. That chapter 36-1B be amended by adding a NEW SECTION to read:

Any license, certificate, registration, or permit issued pursuant to § 36-1B-1 may be renewed until any of the following events occur:

- (1) Active duty orders transfer the applicant out of South Dakota;
- (2) The applicant no longer holds in good standing the same or similar valid license, certificate, registration, or permit required for the practice of any business, profession, or occupation issued by another state or the District of Columbia;
- (3) The applicant fails to adhere to the requirements of the applicable South Dakota licensing body to maintain license, certificate, registration, or permit; or
- (4) The full-time active duty status of the member of the armed forces stationed in South Dakota is terminated.

Section 3. That § 36-1B-4 be amended to read:

36-1B-4. No licensing body under this title may charge an application fee or any other fee payable to the licensing body for a license, certificate, registration, or permit issued pursuant to § 36-1B-1. For the purposes of this section, the term, permit, does not include any permit referenced in this title that is required to perform installation work subject to inspection.

Section 4. That § 36-1B-5 be amended to read:

36-1B-5. Each licensing body under the provisions of this title may promulgate rules pursuant to chapter 1-26 to establish procedures to provide for the expedited issuance of a license, certificate, registration, or permit pursuant to § 36-1B-1.

Section 5. That § 36-1B-2 be repealed.

Section 6. That § 36-1B-3 be repealed.

Section 7. That § 13-42-67 be amended to read:

13-42-67. Unless there is cause to refuse to issue the certificate pursuant to §§ 13-42-7 to 13-42-10, inclusive, the secretary shall, within thirty days of receiving a completed application, issue a teaching certificate to an applicant whose application has been deemed completed by the Department of Education and:

- (1) Who holds in good standing a valid certificate issued by another state or the District of Columbia;

(2) Who is an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States; and

(3) Who is the subject of a military transfer to South Dakota.

An application is considered complete once the department has received all required documentation necessary to process the application. No applicant for a certificate issued pursuant to this section is required to pay an application fee or any other fee payable to the department.

If the secretary denies the issuance of a certificate to an applicant pursuant to this section, the secretary shall report the denial and the reasons for the denial to the Department of Labor and Regulation.

Section 8. That § 13-42-69 be amended to read:

13-42-69. Any certificate issued pursuant to § 13-42-67 shall be limited for a period not to exceed the applicant's length of tour during the time the holder of the certificate continues to meet the eligibility requirements of § 13-42-67. Nothing in this section prohibits the secretary from suspending or revoking the certificate for failure to fulfill the requirements of § 13-42-67.

Section 9. That chapter 36-1B be amended by adding a NEW SECTION to read:

Nothing in this Act may be construed to override, supersede, or invalidate any compact or agreement already in place within any profession regulated under titles 13 or 36.

Nothing in this Act prohibits any active duty military member or military spouse from seeking a professional license, certification, registration, or permit as otherwise provided in law for any profession regulated under titles 13 or 36.

An Act to provide for professional or occupational licensure for certain active duty military personnel and spouses.

<div>I certify that the attached Act originated in the HOUSE as Bill No. 1111</div> <div>_____ Chief Clerk</div> <div>_____ Speaker of the House</div> <div>Attest: _____ Chief Clerk</div> <div>_____ President of the Senate</div> <div>Attest: _____ Secretary of the Senate</div> <div>House Bill No. <u>1111</u> File No. _____ Chapter No. _____</div>	<div>Received at this Executive Office this _____ day of _____ , 20____ at _____ M.</div> <div>By _____ for the Governor</div> <div>_____ Governor</div> <div>The attached Act is hereby approved this _____ day of _____ , A.D., 20____</div> <div>_____ ss.</div> <div>STATE OF SOUTH DAKOTA, Office of the Secretary of State</div> <div>Filed _____ , 20____ at _____ o'clock __ M.</div> <div>_____ Secretary of State</div> <div>By _____ Asst. Secretary of State</div>
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HB 1250

JOURNAL OF THE HOUSE

NINETY-FOURTH SESSION

THIRTY-EIGHTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Tuesday, March 12, 2019

The House convened at 11:00 a.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Jarvis Wipf, followed by the Pledge of Allegiance led by House pages Addy Nelson and Abigail Ryan.

Roll Call: All members present except Reps. Bordeaux, Johns, and Milstead who were excused.

CONSIDERATION OF REPORTS OF CONFERENCE COMMITTEES

Rep. Kevin Jensen moved that the report of the Conference Committee on HB 1250 as found on page 733 of the House Journal be adopted.

Rep. Kevin Jensen moved as a substitute motion that the House do not adopt the report of the Conference Committee on HB 1250 as found on page 733 of the House Journal and do not appoint a new committee.

The question being on Rep. Kevin Jensen's substitute motion to not adopt the report of the Conference Committee on HB 1250 and to not appoint a new committee.

And the roll being called:

Yeas 33, Nays 30, Excused 7, Absent 0

Yeas:

Brunner; Chaffee; Dennert; Frye-Mueller; Glanzer; Goodwin; Hammock; Hansen; Howard; Jensen (Kevin); Johnson (Chris); Koth; Latterell; Livermont; Marty; Mills; Miskimins; Mulally; Otten (Herman); Perry; Peterson (Sue); Pischke; Post; Qualm; Randolph; Rasmussen; Rounds; St John; Steele; Weis; Wiese; York; Haugaard

Nays:

Anderson; Bartels; Barthel; Borglum; Chase; Cwach; Deutsch; Duvall; Finck; Greenfield (Lana); Gross; Healy; Hunhoff; Johnson (David); Karr; Lake; Lesmeister; McCleerey; Olson; Peterson (Kent); Pourier; Reed; Reimer; Reed; Schoenfish; Smith (Jamie); Sullivan; Willadsen; Zikmund

Excused:

Beal; Bordeaux; Gosch; Johns; Milstead; Ring; Saba

So the motion not having received an affirmative vote of a majority of the members-elect, the Speaker declared the motion lost.

The question being on Rep. Kevin Jensen's motion that the report of the Conference Committee on HB 1250 be adopted.

And the roll being called:

Yeas 34, Nays 32, Excused 4, Absent 0

Yeas:

Anderson; Bartels; Barthel; Borglum; Chase; Cwach; Deutsch; Duvall; Finck; Glanzer; Greenfield (Lana); Gross; Healy; Hunhoff; Johnson (David); Lake; Lesmeister; McCleerey; Olson; Perry; Peterson (Kent); Pourier; Reed; Reimer; Ring; Rounds; Schoenfish; Smith (Jamie); Sullivan; Willadsen; York; Zikmund

Nays:

Beal; Brunner; Chaffee; Dennert; Frye-Mueller; Goodwin; Gosch; Hammock; Hansen; Howard; Jensen (Kevin); Johnson (Chris); Karr; Koth; Latterell; Livermont; Marty; Mills; Miskimins; Mulally; Otten (Herman); Peterson (Sue); Pischke; Post; Qualm; Randolph; Rasmussen; St John; Steele; Weis; Wiese; Haugaard

Excused:

Bordeaux; Johns; Milstead; Saba

So the motion not having received an affirmative vote of a two-thirds majority of the members-elect, the Speaker declared the motion lost.

Rep. Qualm moved that the House do now recess until 7:30 p.m., which motion prevailed and at 5:45 p.m., the House recessed.

2019 House Bill 1250 - Senate Health and Human Services

State of South Dakota**NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019**

663B0780

SENATE HEALTH AND HUMAN SERVICES ENGROSSED**NO. HB 1250 - 3/4/2019**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Rounds and Senator Soholt

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding professional counselors and marriage and family therapists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That the code be amended by adding a NEW SECTION to read:

Terms used in sections 2 through 50 of this Act mean:

- (1) "Board," the Board of Examiners for Counselors and Marriage and Family Therapists;
- (2) "Counselor educator," a professional counselor engaged primarily in developing, implementing, and supervising the educational preparation of professional counselors;
- (3) "Counseling," the diagnosis and treatment of mental illness or mental and emotional disorders; individual, group, and marriage and family counseling, and psychotherapy; assessment; crisis intervention; counseling and consulting to facilitate normal growth and development; psychoeducational techniques aimed at the prevention of mental and emotional disorders; consultations with individuals, couples, families, groups, organizations, and communities; and clinical research;
- (4) "Counseling treatment interventions," the application of cognitive, affective, behavioral, and systemic counseling strategies that include principles of development, wellness, and pathology, implemented in the context of a professional counseling relationship;
- (5) "Doctoral or master's degree in counseling," completion of study following a bachelor's degree in a clearly identified counseling program that stands as a recognizable organizational entity within an approved accredited institution of higher learning;
- (6) "Licensee," a person who holds a license to practice counseling;
- (7) "Postgraduate supervision," a period of supervision following the completion of a master's or doctoral degree; and
- (8) "Practice of professional counseling," the application of mental health, psychological, and human development principles in order to:
 - (a) Facilitate human development and adjustment throughout the life span;
 - (b) Prevent, diagnose, and treat mental, emotional, or behavioral disorders and associated distresses, which interfere with mental health;
 - (c) Conduct assessments and diagnoses to establish treatment goals and objectives; and
 - (d) Develop, implement, and evaluate treatment plans using counseling treatment interventions.

Section 2. That the code be amended by adding a NEW SECTION to read:

The board consists of nine members appointed by the Governor. Five members shall be

- (12) Establish continuing education and continuing competency requirements for licensees and permit holders under this Act and the procedures for verifying compliance with the established requirements;
- (13) Establish standards for the practice of distance counseling and distance marriage and family therapy;
- (14) Communicate license and permit actions and status to relevant state and federal governing bodies, as required by law, or as the board determines is appropriate; and
- (15) Employ personnel in accordance with the needs and budget of the board, and enter into contracts as necessary to carry out its responsibilities under this Act.

Section 12. That the code be amended by adding a NEW SECTION to read:

The board may promulgate rules, pursuant to chapter 1-26, to set standards for professional practice and establish procedures for application, professional practice, licensure, eligibility, renewals, ethical standards, continuing education, supervision, and examination of an applicant for and a holder of licensure as a licensed professional counselor, licensed professional counselor-mental health, and licensed marriage and family therapist.

Section 13. That the code be amended by adding a NEW SECTION to read:

Each license issued by the board under sections 2 through 50 of this Act, shall be conspicuously displayed by the licensee at the licensee's primary place of practice. Each licensee shall post and keep conspicuously displayed the annual renewal certificate issued by the board.

Section 14. That the code be amended by adding a NEW SECTION to read:

It is a Class 2 misdemeanor for any person to engage or attempt to engage in the practice of professional counseling, without a license, unless exempted under sections 2 through 50 of this Act.

Section 15. That the code be amended by adding a NEW SECTION to read:

Unless licensed in accordance with sections 2 through 50 of this Act, no person may represent himself or herself as a counselor by using the titles licensed clinical mental health counselor, licensed clinical counselor, licensed professional counselor--mental health, or licensed professional counselor, or any similar title.

Section 16. That the code be amended by adding a NEW SECTION to read:

No advertising regarding the practice of counseling may be fraudulent or misleading. A violation of this section is a Class 1 misdemeanor.

Section 17. That the code be amended by adding a NEW SECTION to read:

No licensee may perform counseling services that are outside the scope of the licensee's relevant education, training, and experience.

Section 18. That the code be amended by adding a NEW SECTION to read:

The board may use its own staff or employ or contract with agents or investigators to assist in enforcing sections 2 through 50 of this Act or any rule promulgated by the board.

If it appears to the board that a person is violating any section from 2 through 50 of this Act or any rule promulgated thereunder, the board may, in its own name or in the name of the state, bring an action in the circuit court of any county in which jurisdiction is proper, to enjoin the action, practice, or violation, and to enforce compliance with sections 2 through 50 of this Act, or any rule promulgated thereunder. The proceedings shall be prosecuted by the Office of the Attorney General or by a person designated by the attorney general and retained by the board as provided in sections 2 through 50 of this Act.

Section 19. That the code be amended by adding a NEW SECTION to read:

The board and its members and officers shall assist any person charged with the enforcement of sections 2 through 50 of this Act. The board, its members and officers, shall furnish evidence to assist in the prosecution of any violation or enforcement, and the board may make a reasonable expenditure for that purpose. The board may employ an attorney designated by the attorney general. The board shall fix and determine the compensation and period of service of the attorney to be paid out of the board's funds.

Section 20. That the code be amended by adding a NEW SECTION to read:

An applicant for a license as a professional counselor-mental health shall file an application, in the manner prescribed by the board, together with the application fee prescribed by the board. The board shall issue a license as a professional counselor-mental health to an applicant who pays the license fee and demonstrates that:

- (1) The applicant has received a master's or a doctoral degree, which consists of at least forty-eight credit hours in counseling, from an accredited counseling program recognized by the board;
- (2) The applicant has passed a standardized national examination approved by the board;

professional counselor-mental health to an applicant who meets the requirements of this section and pays the required fee. A temporary license expires upon the applicant's passage of the required national examination or at the conclusion of the term for which the temporary license was issued, whichever occurs first. A temporary license may only be renewed once.

Section 24. That the code be amended by adding a NEW SECTION to read:

Any person practicing under a temporary license is subject to supervision and discipline by the board, in the same manner as any other licensee under sections 2 through 50 of this Act. A person practicing under a temporary license submits to the jurisdiction of the board.

Section 25. That the code be amended by adding a NEW SECTION to read:

Any licensee shall furnish the board with updated information within thirty days upon a change in the licensee's name, place of employment, or place of business.

Section 26. That the code be amended by adding a NEW SECTION to read:

A license issued under sections 2 through 50 of this Act, other than a temporary license, is valid until November thirtieth of the next odd numbered year following the date of issuance. A license expires automatically unless it is renewed.

Section 27. That the code be amended by adding a NEW SECTION to read:

Any licensee holding a valid license under this Act may renew that license by submitting an application for renewal prior to the date of expiration, paying the required renewal fee, and providing proof of compliance with the continuing education requirements prescribed by the board. If a licensee fails to renew a license on or before the thirtieth day of November in an odd numbered year, the license is automatically suspended.

The board shall notify the licensee that a renewal application has not been received by the board and that the licensee may not practice counseling. Any person who submits a license renewal application and provides proof of compliance with the continuing education requirements set by the board within thirty days after the expiration date may be granted a license renewal.

Section 28. That the code be amended by adding a NEW SECTION to read:

Except as otherwise provided in this section, any person licensed under sections 2 through 50 of this Act shall complete at least forty hours of continuing education every two years in a manner and with an instructor approved by the board.

Any person whose initial license is granted for a period of less than two years shall, during that initial licensure period, complete a prorated number of hours of continuing education, in a manner and with an instructor approved by the board.

The required continuing education hours may be obtained through electronic means. The board may extend or waive the continuing education requirements for a licensee upon a showing of good cause, prior to the expiration of the license.

Section 29. That the code be amended by adding a NEW SECTION to read:

The board may place a license on inactive status at the request of the licensee and the payment of a fee prescribed by the board. An inactive license expires four years after the date of issuance. An inactive license may be reactivated by payment of the license renewal fee and proof of having completed at least forty hours of continuing education during the two-year period immediately preceding the reactivation request. If a license is not reactivated prior to its expiration, all provisions applicable to an applicant for licensure apply in order for the license to be restored to active status.

Any license on inactive status as of July 1, 2019, expires on November 30, 2021, unless the licensee meets the requirements for restoration prior to that time.

Section 30. That the code be amended by adding a NEW SECTION to read:

An expired license may be reactivated within the four year period following its expiration if the applicant:

- (1) Pays all applicable renewal fees required for the period of expiration;
- (2) Provides proof of all continuing education required for the period of expiration; and
- (3) Provides proof of passing a national examination approved by the board after the date the license expired.

Section 31. That the code be amended by adding a NEW SECTION to read:

Sections 2 through 50 of this Act do not apply to the activities and services of a person practicing counseling as part of that person's duties if the person is:

- (1) Licensed or certified under this title and acting in a manner consistent with state law regarding the scope of practice;

dishonorable conduct.

Section 36. That the code be amended by adding a NEW SECTION to read:

Testimony or documentary evidence of any kind obtained during the investigation of a complaint is not subject to discovery or disclosure under chapter 15-6 or any other provision of law and is not admissible as evidence in any legal proceeding, until such time as the complaint becomes a contested case, as defined in § 1-26-1. No person who has participated in the investigation of a complaint may testify as an expert witness or be compelled to testify for any party in any civil action, if the subject matter of the complaint investigated is a basis for the civil action.

Section 37. That the code be amended by adding a NEW SECTION to read:

A license or permit may be suspended, revoked, or canceled if:

- (1) The licensee or permit holder is guilty of fraud in the practice of counseling or of fraud or deceit in the licensee's admission to the practice of counseling;
- (2) The licensee or permit holder has been convicted during the past five years of a felony, or of any crime which, if committed in this state would constitute a felony;
- (3) The licensee or permit holder is engaged in the practice of counseling under a false or assumed name and has not registered that name under chapter 37-11, or is impersonating another practitioner having a like or different name;
- (4) The licensee or permit holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants, to an extent that incapacitates the licensee from the performance of professional duties;
- (5) The physical or mental condition of the licensee or permit holder is determined by a competent healthcare provider to be at risk of jeopardizing or endangering those who seek services from the licensee, provided that a majority of the board may demand an examination of the licensee or permit holder at the board's expense, and further provided that if the licensee or permit holder fails to submit to the examination, this constitutes grounds for the immediate suspension of the license or permit;
- (6) Obtaining or attempting to obtain a license, certificate, permit, or renewal through means of bribery or fraudulent representation;
- (7) Knowingly making a false statement in connection with any application under sections 2 through 50 of this Act;
- (8) Knowingly making a false statement on any form required by the board in accordance with sections 2 through 50 of this Act or any rules promulgated thereunder;
- (9) The licensee or permit holder has violated any section from 2 through 50 of this Act or any rule promulgated thereunder; or
- (10) The licensee or permit holder has been found to be in violation of ethical standards adopted by the board.

Section 38. That the code be amended by adding a NEW SECTION to read:

Proceedings for the suspension, revocation, or cancellation of a license or permit may be initiated when the board has information that a person may have committed any misconduct as provided for in section 37 of this Act or is guilty of gross incompetence or unprofessional or dishonorable conduct.

Section 39. That the code be amended by adding a NEW SECTION to read:

If the board finds that a person, entity, licensee, or permit holder has violated any section from 2 through 50 of this Act or any rule promulgated thereunder, the board may:

- (1) Revoke a license or permit for an indefinite period;
- (2) Suspend a license or permit for a specific or an indefinite period;
- (3) Place a limit or a condition on a license or permit;
- (4) Issue a censure or a letter of reprimand;
- (5) Place a licensee or permit holder on probationary status and require the licensee or permit holder report regularly to the board on the matters that are the basis for probation, limit the licensee's or permit holder's practice to areas prescribed by the board, and require professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation, provided the board may withdraw the probation if the board finds the deficiencies that required disciplinary action have been remedied;
- (6) Impose any other sanction that the board determines is appropriate;
- (7) Impose a fee to reimburse the board in an amount equal to some or all of the costs incurred for the investigation and proceedings resulting in disciplinary action, or for the issuance of a cease and desist order; or

A professional counselor license on inactive status as of July 1, 2019, expires on November 30, 2021, unless the licensee restores the license to active status prior to November 30, 2021.

Section 48. That the code be amended by adding a NEW SECTION to read:

To be eligible for a license as a professional counselor pursuant to section 47 of this Act, any person practicing under a board approved plan of supervision for a professional counselor that is approved as of July 1, 2019, shall, within four years of the date that the plan of supervision was approved, complete three thousand hours of board approved supervision and pass a standard national examination approved by the board. A person practicing under a board approved plan of supervision under this section may practice counseling. A person practicing counseling under a board approved plan of supervision under this section may not perform any counseling services that are outside the scope of the person's relevant education, training, and experience.

The board may not issue a person a plan of supervision as a professional counselor after July 1, 2019.

Section 49. That the code be amended by adding a NEW SECTION to read:

Any person who has been issued a plan of supervision as a professional counselor-mental health as of January 1, 2019, shall meet the educational, supervision, and examination requirements set forth in section 20 of this Act, to be eligible for licensure as a professional counselor-mental health.

Section 50. That the code be amended by adding a NEW SECTION to read:

Any person licensed as a professional counselor-mental health under § 36-32-42 before June 30, 2019, shall be licensed as a professional counselor-mental health pursuant to sections 2 through 49 of this Act.

Section 51. That the code be amended by adding a NEW SECTION to read:

Terms used in sections 51 through 89 of this Act mean:

- (1) "Board," the Board of Examiners for Counselors and Marriage and Family Therapists;
- (2) "Licensee," a person who holds a license to practice marriage and family therapy; and
- (3) "Practice of marriage and family therapy," the rendering of professional marriage and family therapy services to individuals, family groups, and marital pairs, one-on-one or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for compensation, including the diagnosis and treatment of nervous and mental disorders through the application of systemic theory and technique, whether cognitive, affective, or behavioral, within the context of marriage and family systems.

Section 52. That the code be amended by adding a NEW SECTION to read:

Each license issued by the board under sections 51 through 89 of this Act shall be conspicuously displayed by the licensee at the primary place of practice of the licensee. Each licensee shall post and keep conspicuously displayed the annual renewal certificate issued by the board.

Section 53. That the code be amended by adding a NEW SECTION to read:

It is a Class 2 misdemeanor for any person to engage or attempt to engage in the practice of marriage and family therapy, without a license, unless exempted under sections 51 through 89 of this Act.

Section 54. That the code be amended by adding a NEW SECTION to read:

Unless licensed in accordance with sections 51 through 89 of this Act, no person may represent himself or herself as a marriage or family therapist by using the titles "marital therapist," "marriage counselor," "family therapist," "licensed marital therapist", "licensed marriage counselor," "licensed family therapist," or "licensed marriage and family therapist," or any other similar title.

Section 55. That the code be amended by adding a NEW SECTION to read:

No advertising regarding the practice of marriage and family therapy may be fraudulent or misleading. A violation of this section is a Class 1 misdemeanor.

Section 56. That the code be amended by adding a NEW SECTION to read:

No licensee may perform marriage and family therapy services that are outside the scope of the licensee's relevant education, training, and experience.

Section 57. That the code be amended by adding a NEW SECTION to read:

Section 62. That the code be amended by adding a NEW SECTION to read:

Notwithstanding any other provisions, the board may issue a license as a marriage and family therapist to an applicant who is licensed to practice marriage and family therapy in another state or territory of the United States, if the applicant demonstrates that:

- (1) The applicant is currently licensed as a marriage and family therapist and has been under the jurisdiction of the licensing authority in the other jurisdiction for at least three years prior to the time of submitting an application to the board;
- (2) The applicant is in good standing with the licensing authority in the other jurisdiction;
- (3) The applicant has been in an active practice during the three year period prior to the time of submitting an application to the board;
- (4) The applicant passed a standard national examination approved by the board; and
- (5) The applicant has no record of unprofessional conduct or any pending disciplinary complaints in the other jurisdiction.

For purposes of this section, the term, active practice, means at least one thousand five hundred hours of clinical experience.

Section 63. That the code be amended by adding a NEW SECTION to read:

If a marriage and family therapist licensed in another state or territory of the United States has not passed the national examination required by the board for licensure by endorsement, the board may provide the applicant with a temporary license to practice for up to ninety days, provided the applicant demonstrates that:

- (1) The applicant is currently licensed as a marriage and family therapist and has been under the jurisdiction of the licensing authority in the other jurisdiction for at least three years prior to the time of submitting an application to the board;
- (2) The applicant is in good standing with the licensing authority in the other jurisdiction;
- (3) The applicant has been in an active practice during the three year period prior to the time of submitting an application to the board; and
- (4) The applicant has no record of unprofessional conduct or any pending disciplinary complaints in the other jurisdiction.

For purposes of this section, the term, active practice, means at least one thousand five hundred hours of clinical experience.

An applicant for a temporary license shall submit an application on a form approved by the board, along with the application fee and a temporary license fee prescribed by the board. The board shall issue a temporary license as a marriage and family therapist to an applicant who meets the requirements of this section and pays the required fees. A temporary license expires upon the applicant's passage of the required national examination or at the conclusion of the term for which the license was issued, whichever occurs first. A temporary license may only be renewed once.

Section 64. That the code be amended by adding a NEW SECTION to read:

Any person practicing under a temporary license is subject to supervision and discipline by the board, in the same manner as any other person licensed under sections 51 through 89 of this Act. A person practicing under a temporary license submits to the jurisdiction of the board.

Section 65. That the code be amended by adding a NEW SECTION to read:

A licensee shall furnish the board with updated information within thirty days, upon a change in the licensee's name, place of employment, or place of business.

Section 66. That the code be amended by adding a NEW SECTION to read:

Any license issued under sections 51 through 89 of this Act, other than a temporary license, is valid until November thirtieth of the next odd numbered year following the date of issuance. A license expires automatically, unless it is renewed.

Section 67. That the code be amended by adding a NEW SECTION to read:

Any licensee holding a license issued under sections 51 through 89 of this Act may renew that license by submitting an application for renewal prior to the date of expiration, paying the required renewal fee, and providing proof of compliance with the continuing education requirements prescribed by the board. If a licensee fails to renew a license on or before the thirtieth day of November in an odd numbered year, the license is automatically suspended.

(3) If the licensed marriage and family therapist is a party defendant to a civil, criminal, or disciplinary action arising from such professional capacity, in which case any waiver of the privilege accorded by this section is limited to that action;

(4) If the client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or right to present testimony and evidence;

(5) With the written consent of the person or, in the case of the person's death or disability, with the written consent of the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition, provided that if more than one person in a family is receiving therapy from the marriage and family therapist, each family member shall agree to the waiver for the marriage and family therapist to disclose information received from any family member;

(6) If the person waives the privilege by bringing charges against the licensee; or

(7) If there is a duty to warn under other limited circumstances set forth in sections 51 through 89 of this Act.

Section 74. That the code be amended by adding a NEW SECTION to read:

If both parties to a marriage have obtained marriage and family therapy by a licensed marriage and family therapist, the therapist may not testify in an alimony or divorce action concerning information acquired in the course of the therapeutic relationship. This section does not apply to custody actions.

Section 75. That the code be amended by adding a NEW SECTION to read:

The board shall receive complaints regarding the enforcement of sections 51 through 89 of this Act. A record of each complaint shall be maintained by the board. An investigation shall be conducted by a member, agent, or an appointee of the board to determine whether an alleged violation has been committed. The investigator, if a member of the board, may dismiss a complaint if it appears to the member, either with or without consulting of the board, that no violation has been committed. If the investigator is an agent or an appointee of the board, dismissal of the complaint may only be made by the board president. Any agreed disposition made between the investigator and the licensee or permit holder shall be made known to and approved by the board.

If the complaint is not dismissed and an agreed disposition is not reached, the investigator may request that the board set a date for a hearing on the complaint. All disciplinary proceedings held under the authority of sections 51 through 89 of this Act shall be conducted in accordance with chapter 1-26. Any decision of the board entered in a contested proceeding may be appealed to the circuit court within thirty days. A license or permit shall remain in effect during the pendency of an appeal unless suspended under section 78 of this Act.

Section 76. That the code be amended by adding a NEW SECTION to read:

Upon receiving a complaint regarding the health or safety of patients or the public, any authorized board member, officer, agent, or employee may enter and inspect, during business hours, any place where marriage and family therapy is practiced for the purpose of enforcing this Act. Refusal to allow an inspection may constitute unprofessional or dishonorable conduct.

Section 77. That the code be amended by adding a NEW SECTION to read:

Testimony or documentary evidence of any kind obtained during the investigation of a complaint is not subject to discovery or disclosure under chapter 15-6 or under any other provision of law and is not admissible as evidence in any legal proceeding, until such time as the complaint becomes a contested case, as defined in § 1-26-1. No person who has participated in the investigation of a complaint may testify as an expert witness or be compelled to testify for any party in any civil action, if the subject matter of the complaint investigated is a basis for the civil action.

Section 78. That the code be amended by adding a NEW SECTION to read:

The license of a marriage and family therapist may be suspended, revoked, or canceled if:

(1) The licensee is found to be guilty of fraud in the practice of marriage and family therapy or of fraud or deceit in the licensee's admission to the practice of marriage and family therapy;

(2) The licensee has been convicted during the past five years of a felony, or of any crime which, if committed within this state would constitute a felony;

(3) The licensee is engaged in the practice of marriage and family therapy under a false or assumed name and has not registered that name under chapter 37-11, or is impersonating another practitioner having a like or different name;

prosecution of alleged criminal violations and may expend the necessary funds for this purpose.

Section 85. That the code be amended by adding a NEW SECTION to read:

Any person violating any section from 51 through 89 of this Act, may be enjoined from further violations at the suit of the state's attorney of the county where the violations occurred. In the alternative, suit may be brought by any resident of this state.

Section 86. That the code be amended by adding a NEW SECTION to read:

Any person who practices marriage and family therapy through electronic means, and provides marriage and therapy services to a patient located in this state is engaged in the practice of marriage and family therapy in this state regardless of the provider's physical location. Any service provided by a licensee or supervision provided through electronic means shall comply with sections 51 through 89 of this Act and rules promulgated thereunder.

Section 87. That the code be amended by adding a NEW SECTION to read:

The board shall promulgate rules, pursuant to chapter 1-26, to establish:

- (1) An application fee, not exceeding two hundred dollars;
- (2) A biennial renewal fee, not exceeding five hundred dollars;
- (3) A duplicate license fee, not exceeding fifteen dollars;
- (4) An inactive license fee, not exceeding one hundred dollars;
- (5) A temporary license fee, not exceeding two hundred dollars; and
- (6) A license verification fee, not exceeding twenty-five dollars.

Section 88. That the code be amended by adding a NEW SECTION to read:

The board may promulgate rules, pursuant to chapter 1-26, to:

- (1) Set standards for professional practice; and
- (2) Establish procedures for application, licensure, eligibility, renewals, continuing education, supervision, and the examination of an applicant for and a holder of licensure as a licensed marriage and family therapist.

Section 89. That §§ 36-32-1 to 36-32-46, inclusive, 36-33-1, 36-33-2, 36-33-4 to 36-33-9, inclusive, and 36-33-11 to 36-33-33, inclusive be repealed.